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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,968	09/20/2006	Vincent George McCarthy	1000035-000071	5903

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EXAMINER

SWINEHART, EDWIN L

ART UNIT	PAPER NUMBER
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3617

NOTIFICATION DATE	DELIVERY MODE
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07/21/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Office Action Summary	Application No. 10/574,968	Applicant(s) MCCARTHY ET AL.	
	Examiner Ed Swinehart	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/13/2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 16-30, 32-43, 55-60, 63 and 64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16, 19-30, 32, 35-43, 55-60, 63 and 64 is/are rejected.
- 7) ☒ Claim(s) 17, 18, 33 and 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1,58 and 59 are objected to, as such recites “a vessel comprising a first stabilizer assembly and a second stabilizer assembly”, and later recites the stabilizers being suspended beneath the vessel waterline. The claim therefore recites the stabilizers being suspended beneath themselves. Correction is required. It is suggested the preamble be amended to read “A first stabilizer assembly and a second stabilizer assembly for a vessel” or the like.

2. Claims 2 and 3 are objected to, as it should be made clear the relationship of the “first suspending means” to the suspending means previously recited. Also the relationship of the submergible bodies to those previously recited should be made clear.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 26,42 and 57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 26 and 42 repeat a limitation already recited, and therefore fail to further limit the claims from which they depend.

Claim 57 as amended is unclear. Such fails to clarify the relationship of the suspending means to that previously recited, and such repeats limitations already set forth.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 55-58 are rejected under 35 U.S.C. 102(b) as being anticipated by Manning.

Manning discloses the claimed invention, including a pair of suspended circular in cross-section ballast tanks, each having fins **17,19** positioned thereon. Such contribute to the stability of the craft in heavy seas.

Re claims 55 and 57 as amended, such amendments are directed solely to apparatus, and therefore does not further limit the method for reducing motion.

Re claim 58, “elongate flexible” fails to define over the arms **15** of Manning, and all materials possess some degree of flexibility. Furthermore, such fails to define over arms which provide the flexibility of multiple positioning. Re “saddles”, such fail to define over the projecting/overlapping hinge components.

Re “saddles”, such fails to define over the structure pivotally supporting the arms.

7. Claims 55-57 are rejected under 35 U.S.C. 102(b) as being anticipated by Gruber.

Gruber discloses the claimed invention, including four stabilizing closable ballast tanks **22** suspended from the four corners of a vessel.

Re claims 55 and 57 as amended, such amendments are directed solely to apparatus, and therefore does not further limit the method for reducing motion.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 55-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poldervaart in view of Japan '681.

Poldervaart discloses the field of the invention, including the suspension of a pair of weights from opposite sides of a vessel. Poldervaart fails to disclose such weights including a closable ballast tank.

Japan '681 teaches a suspended weight, such including a closable ballast tank to permit ease in retrieval.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide closable ballast tanks to the weights of Poldervaart as taught by Japan '681.

Such a combination would have been desirable so as to provide for ease in handling and transport of the weights.

The size and volume of the tanks of Poldervaart, as well as the shape thereof is considered to have been an obvious design consideration, well within the level of skill of the ordinary routineer working in the art, providing expected results.

10. Claims 1-14,16,19-30,32,35-43,55-57,59,60,63 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imaizumi in view of Seward.

Imaizumi discloses the claimed invention with exception of the tops of the suspending means being directly connected together. Shown are a series of open

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ballast chambers, which are suspended one above the other on either side of a vessel to stabilize same. Such chambers will fill with water.

Seward teaches the suspending of stabilizers from the sides of a vessel by suspending means **23** which are attached, one to the other above a central deck area of the vessel upon the mast **24**.

It would have been obvious to one of ordinary skill in the art at the time of the invention to support the stabilizers of Imaizumi with a suspension means as that taught by Seward.

Such a combination would have been desirable so as to provide for a greater moment arm such that the stabilizers are more effective, as well as configure the vessel of Imaizumi for fishing.

The size and volume of the tanks of Imaizumi, as well as the shape thereof, as well as the number employed and the location of the vessel from which they are deployed is considered to have been obvious design considerations, well within the level of skill of the ordinary routineer working in the art, providing results exactly as would have been expected.

Re claim 12, substitution of chain for cable is considered to have been obvious, as such are recognized equivalents in the art.

Re "saddles", such sets forth no structure and/or arrangement to define over the vessel width increasing outrigger arms carrying the suspending means **23**.

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11. Claims 17,18,33 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. Applicant's arguments filed 5/11/2009 have been fully considered but they are not persuasive.

Applicant argues that the pods of Manning are not arranged to provide a downwardly directed force.

The examiner does not agree, as such are ballast chambers which can be wholly flooded, and therefore would exert a force as claimed.

Applicant argues that manning fails to show saddles which increase the width of the vessel.

Such has been addressed within the body of the rejection.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Swinehart whose telephone number is 571-272-6688. The examiner can normally be reached on Monday through Thursday 6:30 am to 2:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ed Swinehart/
Primary Examiner
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